

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)

Plaintiff,)

v.)

UNITED FENCE COMPANY, and)
WOR-MAR, INC.)

Defendants.)

CIVIL ACTION NO. 02-16 PM 3:04

COMPLAINT

JURY TRIAL DEMAND

MAGISTRATE JUDGE DENLOW

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. ("Title VII"), and Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981a, to correct unlawful employment practices on the basis of national origin and race to provide appropriate relief to Daniel Diaz, Roberto Gonzalez, Jesus Monreal and a class of Hispanic employees who were adversely affected by such practices, and to James Jackson and a class of Black employees who were adversely affected by such practices.

JURISDICTION AND VENUE

1. This action is brought by the United States Equal Employment Opportunity Commission to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000c et seq.

2. This action is authorized and instituted pursuant to § 706(f)(1), § 706(f)(3), and § 707(a) through (c) of Title VII, 42 U.S.C. §2000e-5(f)(1) §2000e-5(f)(3), and §2000e-6(a) through (c).

3. This court has jurisdiction of this action pursuant to 28 U.S.C. §§ 451, 1331,

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1337, 1343, 1345, 42 U.S.C. §§ 2000e-5(f)(3), 2000e-6(a-c), and § 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981A.

4. The unlawful acts alleged below were and are now being committed within the jurisdiction of the United States District Court for the Northern District of Illinois.

PARTIES

5. Plaintiff, Equal Employment Opportunity Commission ("EEOC" or the "Commission"), is an agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by § 706(f)(1), § 707(a) and §707(c) of Title VII, 42 U.S.C. §2000e-5(f)(1), §2000e-6(a), and §2000e-6(c).

6. At all relevant times, Defendant Wor-Mac, Inc. has continuously been a corporation doing business in Cook County, Illinois.

7. At all relevant times, Wor-Mac, Inc. has continuously had at least fifteen (15) employees.

8. At all relevant times, Wor-Mac, Inc. has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

9. At all relevant times, Defendant United Fence Company has continuously been a corporation doing business in Cook County, Illinois.

10. At all relevant times, United Fence Company has continuously had at least fifteen (15) employees.

11. At all relevant times, United Fence Company has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

12. At all relevant times Wor-Mac, Inc. and United Fence Company have acted as a single or joint employer.

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STATEMENT OF CLAIMS

13. On January 11, 1999, more than thirty (30) days prior to the institution of this lawsuit, Daniel Diaz filed a charge of discrimination with the Commission alleging violations of Title VII by United Fence Company.

14. On April 16, 2002, the EEOC issued a Letter of Determination to Wor-Mac, Inc. and United Fence Company finding that Respondents had discriminated against Hispanic employees as a class, and against African-American employees as class.

15. Pursuant to 42 U.S.C. § 2000e-5(f)(1), EEOC's representatives attempted to eliminate the unlawful employment practices alleged below and to effect voluntary compliance with Title VII prior to institution of this lawsuit but EEOC was unable to secure an acceptable conciliation agreement.

16. All conditions precedent to the institution of this lawsuit have been fulfilled.

17. From at least January 1, 1998 until the present, Defendants have engaged in a pattern and practice of national origin discrimination against Hispanic employees in continuing violation of §703(a) of Title VII, 42 U.S.C. § 2000e-2(a). These unlawful employment practices include, but are not limited to:

(a) requiring Daniel Diaz, Roberto Gonzalez, Jesus Monreal and a class of Hispanic employees to speak only English during working hours;

(b) harassing , verbally reprimanding and threatening to terminate Daniel Diaz, Roberto Gonzalez, Jesus Monreal and a class of Hispanic employees when they spoke Spanish;

(c) subjecting Daniel Diaz, Roberto Gonzalez, Jesus Monreal and a class of Hispanic employees to harassment and a hostile work environment based on their national origin;

(d) paying Hispanic employees less than non Hispanic employees who performed substantially the same work;

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(e) failing to take prompt and appropriate corrective action in response to complaints or other notice of discrimination on the basis of Hispanic national origin;

(f) causing a class of employees to resign their employment because of continued disparate treatment on the basis of their Hispanic national origin, thus constructively discharging them.

18. The result of the practices complained of in paragraph 17 has been to deprive Daniel Diaz, Roberto Gonzalez, Jesus Monreal and other Hispanic employees of equal employment opportunities and otherwise adversely affect their status as employees because of their national origin.

19. From at least January 1, 1998 until the present, Defendants have engaged in a pattern and practice of race discrimination against African-American employees in continuing violation of §703(a) of Title VII, 42 U.S.C. § 2000c-2(a). These unlawful employment practices include, but are not limited to:

(a) subjecting James Jackson and a class of African-American employees to harassment and a hostile work environment based on their race;

(b) failing to take prompt and appropriate corrective action in response to complaints or other notice of discrimination on the basis of their race;

(c) causing a class of employees to resign their employment because of continued disparate treatment on the basis of their race, thus constructively discharging them.

20. The result of the practices complained of in paragraph 19 has been to deprive James Jackson and other African-American employees of equal employment opportunities and otherwise adversely affect their status as employees because of their race.

21. The unlawful employment practices complained of above were and are intentional.

22. The unlawful employment practices complained of in paragraph 17 were done

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with malice or with reckless indifference to the federally protected rights of Daniel Diaz, Roberto Gonzalez, Jesus Monreal and a class of Hispanic employees.

23. The unlawful employment practices complained of in paragraph 19 were done with malice or with reckless indifference to the federally protected rights of James Jackson and a class of African American employees.

PRAYER FOR RELIEF

WHEREFORE, the Commission requests that this Court:

A. Grant a permanent injunction enjoining Defendants, their officers, successors, assigns, and all persons in active concert or participation with them, from engaging in any employment practices which discriminate on the basis of national origin or race;

B. Order Defendants to institute and carry out policies, practices and programs which provide equal employment opportunities for its employees regardless of national origin or race, and which eradicate the effects of its unlawful employment practices;

C. Order Defendants to make whole Roberto Gonzalez, Jesus Monreal and a class of Hispanic employees constructively discharged by the unlawful practices alleged above, and James Jackson and a class of African American employees constructively discharged by the unlawful practices alleged above, by providing appropriate back pay with pre-judgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of the unlawful employment practices, including but not limited to rightful place reinstatement to those employees who were constructively discharged in violation of Title VII;

D. Order Defendants to make whole Daniel Diaz, Roberto Gonzalez, Jesus Monreal and a class of Hispanic employees adversely affected by the unlawful employment practices alleged above, and James Jackson and a class of African American employees adversely affected by the unlawful practices alleged above, and who were

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constructively discharged, by providing compensation for past and future pecuniary losses resulting from those unlawful employment practices, in amounts to be determined at trial;

E. Order Defendants to make whole Daniel Diaz, Roberto Gonzalez, Jesus Monreal and a class of Hispanic employees adversely affected by the unlawful employment practices alleged above, and James Jackson and a class of African American employees adversely affected by the unlawful practices alleged above, by providing compensation for past and future non-pecuniary losses resulting from those unlawful employment practices including emotional pain, humiliation, and inconvenience in amounts to be determined at trial;

F. Order Defendants to pay punitive damages for their malicious and reckless conduct described in paragraphs 17, 19, 22 and 23 above, in amounts to be determined at trial;

G. Prohibit Defendants from discriminating against any individual for engaging in protected activity under Title VII of the Civil Rights Act of 1964, or for opposing practices made unlawful by Title VII, or for participating in this law suit;

H. Grant such further relief as this Court deems necessary and proper in the public interest; and

I. Award the Commission its costs in this action.

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JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by the Complaint.

DATED this 12th day of September, 2002.

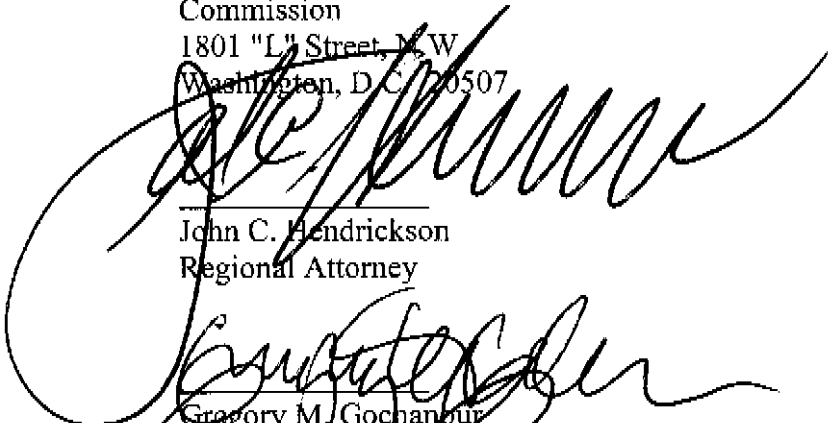
Respectfully submitted,

Nicholas M. Inzeo
Acting Deputy General Counsel

Gwendolyn Young Reams
Associate General Counsel

Equal Employment Opportunity
Commission

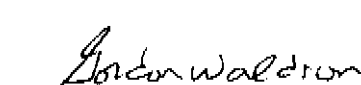
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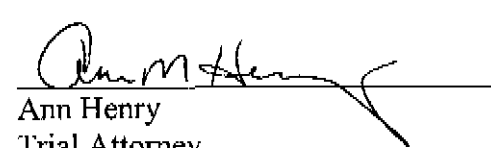
John C. Hendrickson
Regional Attorney



Gregory M. Gochanour
Supervisory Trial Attorney



Gordon Waldron
Senior Trial Attorney



Ann Henry
Trial Attorney

Equal Employment Opportunity
Commission

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

FILED-ED4

02 SEP 16 PM 3:04

CLERK
U.S. DISTRICT COURT

Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Northern District of Illinois.

DOCKETED

SEP 17 2002

**Plaintiff(s): U.S. Equal Employment
Opportunity Commission**

**Defendant(s): United Fence Company and
WOR-MAC, Inc.**

County of Residence:

County of Residence: Cook

Plaintiff's Atty: Gordon Waldron
U.S. Equal Employment
Opportunity Commission
500 W. Madison St., Suite 2800
Chicago, Illinois 60661
(312) 353-7525

Defendant's Atty: Jonathan T. Georgis
Thomas Georgis and
Associates
11020 S. Roberts Road
Palos Hills, IL 60465
(708) 974-4700

II. Basis of Jurisdiction: 1. U.S. Gov't Plaintiff

III. Citizenship of Principal
Parties (Diversity Cases Only)

Plaintiff:- N/A
Defendant:- N/A

02C 6589

JUDGE JOHN W DARRAH

IV. Origin : 1. Original Proceeding

V. Nature of Suit: 442 Employment

VI. Cause of Action: Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000 et seq. ("Title VII"), and Title I of the Civil Rights Act of 1991, 42 U.S.C. §1981a, to correct unlawful employment practices on the basis of national origin, and race.

VII. Requested in Complaint

Class Action:
Dollar Demand:
Jury Demand: Yes

VIII. This case IS NOT a refiling of a previously dismissed case.

Signature: _____

Gordon G. Waldron

9/16/02

UNITED STATES DISTRICT COURT**NORTHERN DISTRICT OF ILLINOIS**

FILED-004

02 SEP 16 PM 3:04

DOCKETEDU.S. DISTRICT COURT
SEP 17 2002

In the Matter of

U.S. Equal Employment Opportunity Commission,
Plaintiff,

Case Number:

v.

United Fence Company, Wor-Mac, Inc.,



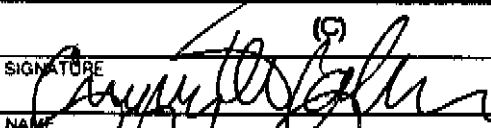
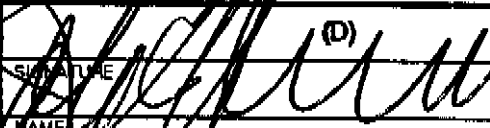
Defendant.

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:

U.S. Equal Employment Opportunity Commission, Plaintiff

JUDGE JOHN W. L. ...

...
...

(A)	(B)
SIGNATURE 	SIGNATURE 
NAME Gordon Waldron	NAME Ann M. Henry
FIRM Equal Employment Opportunity Commission	FIRM Equal Employment Opportunity Commission
STREET ADDRESS 500 W. Madison St., Suite 2800	STREET ADDRESS 500 W. Madison St., Suite 2800
CITY/STATE/ZIP Chicago, Illinois 60661	CITY/STATE/ZIP Chicago, Illinois 60661
TELEPHONE NUMBER (312) 353-7525	TELEPHONE NUMBER (312) 353-8558
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) ARDC No. 02920646	IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) ARDC No. 06272394
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TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
	DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>
SIGNATURE 	SIGNATURE 
NAME Gregory M. Gochanour	NAME John C. Kendrickson
FIRM Equal Employment Opportunity Commission	FIRM Equal Employment Opportunity Commission
STREET ADDRESS 500 W. Madison St., Suite 2800	STREET ADDRESS 500 W. Madison St., Suite 2800
CITY/STATE/ZIP Chicago, Illinois 60661	CITY/STATE/ZIP Chicago, Illinois 60661
TELEPHONE NUMBER (312) 886-9124	TELEPHONE NUMBER (312) 353-8551
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) ARDC No. 06210804	IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) ARDC No. 01187589
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DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>	DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>

PLEASE COMPLETE IN ACCORDANCE WITH INSTRUCTIONS ON REVERSE.

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